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The National Truck Equipment Association (NTEA) submits the following comments in response to the National Highway Traffic Safety Administration's (NHTSA) May 17, 2004 notice of proposed rulemaking (NPRM) on Federal Motor Vehicle Safety Standards; Side Impact Protection and Side Impact Phase-In Reporting Requirements.

The (NTEA) is the nation's only trade association representing distributors and manufacturers of multi-stage produced, work related trucks, truck bodies and equipment. The NTEA also represents various industry-related firms and organizations. The NTEA currently has over 1,600 member companies located throughout the nation. Most NTEA members are small businesses that sell on a local or regional basis.

The average NTEA member is a typical small business, a closely held corporation or independent proprietorship, run by community based management, operating a single facility and employing a small local work force. The average distributor member of the NTEA, the companies that sell and install truck bodies and related equipment (and generally are considered final stage manufacturers, intermediate stage manufacturers or alterers under NHTSA definitions), have been in business some 30 years, have less than $5 million in annual sales and employ 20 people. The average NTEA manufacturer member, companies that fabricate and occasionally install truck bodies and related equipment, have been in business over 36 years, have $20 million in annual sales and employ approximately 300 people. Virtually all NTEA distributor and manufacturer members qualify as small businesses for purposes of the Regulatory Flexibility Act.

Vehicles produced by NTEA member companies for commercial or vocational use include, but are not limited to, fire trucks, ambulances, utility company vehicles, aerial bucket trucks, tow trucks, beverage delivery trucks, digger derricks, dump trucks and snow removal vehicles.

The Proposed Rule and Multi-Stage Produced Trucks

NHTSA proposes to upgrade the side impact protection standard by requiring all passenger vehicles with a GVWR of 10,000 pounds or less (NHTSA proposes excluding certain vehicles from this test) to comply with a new "vehicle–to–pole" test.. The agency states that compliance with this test will likely require the installation of inflatable air curtains or head air bags that drop from the roof line above the door frame. This proposal would also upgrade the existing moving deformable barrier test but maintain the applicability of the test to LTV's with a GVWR of 6,000 lb. or less.

NHTSA proposes to exclude certain vehicles from the pole test. These vehicles include motor homes, tow trucks, dump trucks, ambulances and other emergency rescue/medical vehicles (including vehicles with fire-fighting equipment), vehicles equipped with wheelchair and vehicles which have no doors, or lifts, vehicles with raised or altered roof designs exclusively have doors that are designed to be easily attached or removed so that the vehicle can be operated without doors. NHTSA proposes the exclusions because the vehicles have unusual features that would make compliance with the test difficult or impossible.

The NTEA supports NHTSA's recognition that certain vehicles required by the marketplace in specialized configurations can be incompatible with certain compliance tests.

As a practical matter, there are a very limited number of work-related or vocational vehicles excluded under the proposed language. There is a small population of Type II ambulances produced under 10,001 lb GVWR. There are also a small number of walk-in vans based on an under 10,001 lb GVWR single rear wheel cutaway chassis. We are not aware of any dump trucks or tow trucks in this weight category, at this time. Nonetheless, we agree with NHTSA's intention and support these exclusions.

The NTEA would also like to suggest one additional, and very important, vehicle exception. Multi-stage manufacturers or alterers of vehicles equipped with a partition behind the front seat will not be able to certify those vehicles to this proposed regulation.

Partitions and Bulkheads

The installation of a bulkhead or partition will almost certainly invalidate any chassis manufacturer's compliance statement that may be available for a vehicle equipped with side impact protection such as a side curtain airbag.

Bulkheads or partitions are used in a variety of vocations that haul or carry many odd-shaped objects that can not be readily secured in the cargo area. The partition protects the driver and passenger from loose or shifting cargo (particularly during sudden deceleration) that could otherwise hit them in the back of the head. In the case of emergency vehicles, such as police cars, the partition protects the law enforcement personnel from back seat occupants. Small busses typically have a partial partition behind the front compartment for the safety of both driver and passengers.

In commercially regulated vehicles, FMCSR 393.106 requires the use of front-end structures to protect the driver's compartment of commercial vehicles. The bulkheads designed for other vehicles perform the same safety related function.

The bulkhead not only protects the driver and front seat passenger but also those in other vehicles or nearby. If the driver is struck by shifting cargo, he or she is likely to lose control of the vehicle further endangering themselves, their passenger and those around them.

The NTEA requests that NHTSA also exclude vehicles "*where the vehicle is equipped with a full or partial bulkhead or other similar device for the purpose of protecting or isolating the driver and passenger compartment from the cargo carrying, load bearing or work performing area of the vehicle or in the case of a bus where the full or partial bulkhead is installed in an area behind the driver.*"

Certification by Multi-Stage Manufacturers

As NHTSA is aware, certification of compliance to dynamic testing standards for the specialized, commercial vehicles produced by the members of the NTEA is typically accomplished using so-called "pass-through" compliance. While NHTSA does propose some vehicle exceptions to the vehicle-to-pole test the NTEA is concerned that many existing vehicles would not be certifiable under the proposed regulation.

There is little doubt that the chassis manufacturers will place very restrictive completion guidelines on vehicles equipped with side curtain air bags or head bags. Indeed, the chassis manufacturers may state that subsequent stage

manufacturers are unable to do anything in the vicinity of the side impact protection or provide no compliance statement of any sort.

If a final stage manufacturer or alterer is unable to "pass-through" the chassis manufacturer's statement of compliance there are no viable alternatives to demonstrate compliance. In previous rulemakings NHTSA has suggested things such as computer modeling, engineering analysis or group testing. These options are neither practicable nor reasonable for small business, multi-stage truck manufacturers.

Options to Demonstrate Compliance

a) Engineering analysis

In order to demonstrate compliance via engineering analysis, FMVSS 214 specific experience and knowledge would be needed by each multi-stage vehicle manufacturer. This necessary level of experience is not available to final stage manufacturers with a new requirement of this nature. Previous dynamic test data is also needed for engineering analysis to be adequate for compliance certification. Such previous data does not exist.

b) Computer modeling

Computer programming of this nature is very expensive. It requires highly specialized personnel and is not widely available outside of the chassis manufacturers. Computer modeling for certifying compliance to safety standards requires a database of previous in-vehicle tests. These databases of previous testing data must contain very specific targeting data for every vehicle model.

Computer modeling for safety standard compliance is only used by the chassis manufacturers as a development tool. It is not used to replace vehicle testing.

c) Consortium dynamic testing

Testing by several companies using a single generic vehicle configuration can be a good compliance tool. The testing data gathered from the generic design can be used by groups of companies to make compliance determinations about a number of different vehicles. In the case of FMVSS 214, the compliance tests developed by NHTSA are very specific, even minor trim differences in a single model could produce significantly different test results, let alone varying chassis and body combinations. As such, generic

designs can not be created to represent significant numbers of vehicle configurations.

d) Individual vehicle dynamic test

Conducting vehicle compliance tests for the number of vehicle configurations produced by the multi-stage trucks and specialty vehicle industry is not economically or technologically possible.

In an analysis for FMVSS 201 U, the NTEA found over 1,200 identifiable vehicle configurations being produced (not including minor trim differences in model configurations that could also affect compliance) by the truck body and equipment industry in the applicable weight range. Any individual small business in our industry could be producing numerous configurations in a given year. It would be a practical impossibility for these companies to test each of these configurations in order to sell the one or two of each configuration that have been ordered by a customer.

As NHTSA can see, it is always difficult and often impossible for a small business that is a multi-stage manufacturer or alterer to build vehicles in compliance with a regulation that requires dynamic testing without the assistance of the chassis manufacturer. It is vital that NHTSA author regulations that recognize the need for commercial and vocational vehicles and the inherent concerns in designing such vehicles.

Lead Time and Multi-Stage Phase-In Requirements

NHTSA proposes allowing multi-stage manufacturers and alterers until the end of the phase-in period before they would have to comply with the new regulations. The NTEA supports NHTSA's recognition that such manufacturers are unable to comply until such time as the chassis manufacturers provide compliant chassis. The multi-stage manufacturer has no control over when a chassis manufacturer will choose to produce appropriate complaint chassis during the phase-in period.

Multi-stage manufacturers also have lead-time issues of their own, over and above those of the chassis manufacturers. When a new or amended regulation takes effect the chassis manufacturer provides multi-stage manufacturers with information about the chassis and whether or not it complies. The multi-stage manufacturer must then determine their compliance strategy based on the chassis manufacturer's information. As a practical matter, this information is often not available until the chassis arrives on the doorstep of the multi-stage manufacturer or alterer. In recognition of this fact, NHTSA has recently proposed that multi-stage manufacturers and alterers should be

given an additional year to comply, even in the case of a phased-in regulations (see June 28, 2004 SNPRM on multi-stage vehicle certification).

The NTEA requests that NHTSA allow multi-stage vehicle manufacturers and alterers until September 1, 2012 to comply with the new regulations.

Conclusion and Requested Changes

Manufacturers of work-related and vocational trucks built in two or more stage or altered prior to the first sale of the truck are typically small businesses. These companies rely on compliance data and instructions from the chassis manufacturers to produce vehicles that comply with all applicable safety standards. In the case of a dynamic testing standard, these businesses have no practical compliance alternatives to the "pass-through" of the chassis manufacturer's compliance. In the case of this standard, many commercial and vocational vehicle configurations will be such that no compliance instructions, or highly restrictive ones, will be offered by the chassis manufacturers.

The NTEA suggests the following changes to the NPRM:

- Except vehicles built in two or more stages that are equipped with a cargo carrying, load bearing or work- performing body or equipment.

- Except vehicles equipped with a full or partial bulkhead or other similar device installed behind the driver compartment of the vehicle.

- Make the new regulations effective September 1, 2012 for multi-stage vehicle manufacturers and alterers.

Sincerely,

Michael Kastner
Director of Government Relations
NTEA Washington, DC Office